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APPEAL BRIEF

This Appeal Brief is in furtherance of the Notice of Appeal filed on October 22, 2007 and the Notice of Panel Decision from Pre-Appeal Brief Review mailed December 26, 2007. The Appeal Brief contains the following sections in the order set forth below:

I.   REAL PARTY IN INTEREST

II.   RELATED APPEALS AND INTERFERENCES

III.   STATUS OF CLAIMS

IV.   STATUS OF AMENDMENTS

V.   SUMMARY OF THE CLAIMED SUBJECT MATTER

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

VII.   ARGUMENT

VIII.   CLAIMS APPENDIX

IX.   EVIDENCE APPENDIX

X.   RELATED PROCEEDINGS APPENDIX

I.   REAL PARTY IN INTEREST

The real party in interest in this appeal is STUBHUB, INC., as the Assignee of record.

II.   RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences that will directly affect, or be affected by, or have a bearing on the decision of the Board in the pending appeal.

III.   STATUS OF CLAIMS

Claims originally filed: 1-43

Claims canceled: None

Claims withdrawn from consideration: None

Claims allowed: None

Claims objected to: None

Claims rejected: 1-43

Claims on appeal: 1-43

IV.   STATUS OF AMENDMENTS

The Response and Request for Reconsideration filed on October 22, 2007, subsequent to the Final Rejection, has been entered.

V.   SUMMARY OF THE CLAIMED SUBJECT MATTER

The following is a concise explanation of the subject matter defined in each of independent claims 1, 12, 25, 36, and 40 involved in the appeal, referring to the specification by page and line number, and to the drawings by reference characters.

Support for the claimed subject matter defined in independent claim 1 is found at least in the portions of the specification and drawings as follows.

Claim 1	Specification and Drawings
A system for providing logistics for a sale goods,	The present invention provides a system and method for providing logistics for the sale and purchase of goods, such as event tickets. In the preferred embodiment, the system and method are implemented on a global communications or computer network. Particularly, the system and method may comprise a "Web site," that may be implemented by at least one computer system or network (e.g., a plurality of cooperatively linked computers) that is operatively and communicatively coupled to a global computer network (e.g., the Internet) and that may be selectively and remotely accessed by users of the network. **Page 9, lines 11-17.** FIG. 1 shows a system 10 which is implemented on a global communications or computer network 20 (e.g., the Internet), in accordance with the present invention. System 10 may represent a conventional and commercially available computer system or an independent microprocessor-based system built specifically for use with the present invention. **Page 10, lines 3-6** and **FIG. 1.**
said system being adapted to receive information from at least one remote seller and at least one remote buyer,	In functional block or step 32, system 10 receives information from sellers regarding the identity of the sellers, and a description and location of the goods that the sellers desire to sell. In the preferred embodiment of the invention, the data can be communicated over a global computer network 20 by prospective sellers who are selectively queried by system 10 (e.g., while visiting a Web site), and who transmit appropriate responses by use of a computer 22. **Page 11, line 20 - Page 12, line 2** and **FIGS. 1 and 2.**

FIGS. 6-14 illustrate some examples of queries and interactive "pages" (i.e., Web pages where users may view and enter data by use of conventional browsing software) that may be presented by system 10 in order to gather information from prospective sellers of event tickets. **Page 12, lines 3 - 6** and **FIGS. 6-14.**

Referring back to FIG. 2, the system 10 proceeds with the methodology 30 by receiving a purchase request and information from the buyer, as shown in functional block or step 36. Particularly, when a buyer desires to purchase any of the presented goods, system 10 accepts the purchase request, and queries the buyer for information (e.g., name, address, city, state, zip code, and other buyer attribute data). **Page 22, lines 3 – 7** and **FIGS. 1 and 2.**

In one non-limiting embodiment, the following series of pages may be used: a seat selection page that allows a user to select which of the seats the user desires to purchase; a delivery location options page that allows a user to enter a desired location for delivery (e.g., the user's home and/or work address, or will call); a delivery method options page that allows a user to select between various shipping options (e.g., conventional land/air courier, express courier, local courier or runner, overnight delivery, second day delivery, same day delivery); a payment options page that displays the total cost (e.g., ticket and delivery cost) and allows a user to select a method of payment (e.g., the type and number of a credit or debit card); and a confirmation page that allows a user to view a summary of the foregoing information, including a description of the tickets, delivery method, delivery location, payment amount, and method of payment. **Page 22, line 19 – Page 23, line 8** and **FIGS. 1 and 2.**

and to provide financial logistics and shipping logistics for completing said sale of goods without requiring interaction between said buyer and said seller;	Referring once again to FIG. 2, once the transaction has been confirmed by the buyer, system 10 proceeds with the methodology 30 by providing financial logistics, as shown in functional block or step 38, and by providing shipping logistics, as shown in functional block or step 40. **Page 25, lines 19 - 22** and **FIGS. 1 and 2.** In step 38, the system 10 automatically arranges and/or provides for all of the necessary financial logistics for the sale of goods to the buyer. In the preferred embodiment of the invention, the system 10 communicates and/or integrates with financial or payment service providers by use of global computer network 20 in order to provide the financial logistics for the sales transaction. Flow diagram 50 of FIG. 3 illustrates an example of a method of providing payment processing or financial logistics in accordance with a preferred embodiment of the invention. **Page 26, lines 3 - 9** and **FIGS. 1-3.** Referring back to FIG. 2, the system 10 proceeds to automatically arrange and/or facilitate the logistics for the delivery of goods to the buyer, as shown in step 40. In the preferred embodiment of the invention, the system 10 communicates with several couriers by use of global computer network 20 in order to provide the shipping logistics for the sales transaction. Flow diagram 70 of FIG. 4 illustrates an example of a method of providing shipping logistics in accordance with a preferred embodiment of the invention. **Page 27, lines 16 - 21** and **FIGS. 1, 2 and 4.** The present invention provides a system and method that performs all of the financial and shipping logistics without requiring any interaction between the buyer and seller. The system and method of the

	present invention may be implemented in a "double blind" manner to enable a third party (i.e., the operator of the system) to manage a transaction for the sale of goods between a seller and a remote buyer, including performing all necessary financial and shipping logistics, while maintaining the identity of the transacting parties (i.e., buyer and seller) confidential from one another. **Page 30, lines 12-18** and **FIG. 5.**
wherein said shipping logistics include automated variation of delivery options as a function of a time period associated with said goods and a geography-based consideration.	In the preferred embodiment, system 10 determines the available shipping options by use of a second geography and time-based strategy adapted for use with the sale of time-sensitive goods. FIG. 19 illustrates one non-limiting embodiment of a geography and time-based method or strategy 400, which may be implemented by system 10 to determine available courier and shipping options. **Page 23, lines 9-13** and **FIG. 19.** In functional block or step 410, the system 10 determines the time remaining before the goods expire (i.e., the time between the requested purchase and the "expiration time" or the day and time the goods will expire). For example, in the preferred embodiment, the system 10 obtains the time remaining by assigning a third numeric value to the present time (i.e., the time of the buyer's purchase request), and subtracting this value from the first numeric value, representing the expiration time of the goods. The result may be converted into an amount of days and/or hours in a conventional manner. **Page 23, lines 13-19** and **FIG. 19.** In functional block or step 420, system 10 receives the location of the goods (e.g., the seller's address) from the data entered by the seller. In functional block or step 430, the system 10 determines the point of last delivery (i.e., the location of the venue),

	and the location of the buyer (e.g., the buyer's home and/or work address) from the data entered by the buyer. **Page 23, lines 20 - 23** and **FIG. 19.**
	Finally, in functional block or step 440, system 10 obtains all shipping options, based upon the day of the goods expire, time remaining, the location of the goods, the location of the buyer, and the point of last delivery. These represent shipping options that will ensure that the goods can be delivered either to the buyer or to the point of last delivery before the goods expire. In the preferred embodiment, system 10 is electronically integrated with and/or communicatively coupled to the operating systems of a plurality of shipping couriers, such as conventional air/land couriers, express couriers, and local couriers or "runners." Alternatively, system 10 may include all relevant information, concerning the couriers' respective shipping capabilities and terms, in one or more databases or tables that can be selectively queried in order to obtain the available shipping options. System 10 queries these systems/databases to determine which couriers can execute the delivery within the time remaining before the goods expire, at which locations the deliveries can be made (e.g., at the buyer's location and/or at the point of last delivery), by which methods the couriers can perform the deliveries (e.g., two day, one day, overnight or same day delivery), and the cost of each shipping option. System 10 then presents some or all of the shipping options to the buyer. In the preferred embodiment, system 10 presents a list containing the identity of the couriers, the available shipping methods (e.g., two day, one day, overnight, same day) for each courier, and the associated cost of each shipping option. **Page 24, lines 1 – 18** and **FIG. 19.**

Support for the claimed subject matter defined in independent claim 12 is found at least in the portions of the specification and drawings as follows.

Claim 12	Specification and Figures
A system for providing logistics for a sale of goods comprising:	The present invention provides a system and method for providing logistics for the sale and purchase of goods, such as event tickets. In the preferred embodiment, the system and method are implemented on a global communications or computer network. Particularly, the system and method may comprise a "Web site," that may be implemented by at least one computer system or network (e.g., a plurality of cooperatively linked computers) that is operatively and communicatively coupled to a global computer network (e.g., the Internet) and that may be selectively and remotely accessed by users of the network. **Page 9, lines 11-17.** FIG. 1 shows a system 10 which is implemented on a global communications or computer network 20 (e.g., the Internet), in accordance with the present invention. System 10 may represent a conventional and commercially available computer system or an independent microprocessor-based system built specifically for use with the present invention. **Page 10, lines 3-6** and **FIG. 1.**
a first portion adapted to receive information from a seller, including a location, desired sale price and description of certain goods;	In functional block or step 32, system 10 receives information from sellers regarding the identity of the sellers, and a description and location of the goods that the sellers desire to sell. In the preferred embodiment of the invention, the data can be communicated over a global computer network 20 by prospective sellers who are selectively queried by system 10 (e.g., while visiting a Web site), and who transmit appropriate responses by use of a computer 22. **Page 11, line 20 - Page 12, line 2** and **FIGS. 1 and 2.**

	FIGS. 6-14 illustrate some examples of queries and interactive "pages" (i.e., Web pages where users may view and enter data by use of conventional browsing software) that may be presented by system 10 in order to gather information from prospective sellers of event tickets. **Page 12, lines 3 - 6** and **FIGS. 6-14.**
a second portion adapted to present said desired sale price and description of said certain goods to a prospective buyer;	Referring back to FIG. 2, after receiving and processing all of the seller information, the system 10 proceeds with the methodology 30 by presenting information to prospective buyers, as shown in functional block or step 34. Particularly, the system 10 presents information regarding goods that are for sale to prospective buyers. In the preferred embodiment of the invention, the information is communicated over a global computer network 20 to prospective buyers who are directed to or are visiting a Web site utilized to implement system 10. **Page 20, line 19 - Page 21, line 2** and **FIG. 2.** Once a user has located an appropriate event (e.g., an event displayed on page 220), the user may select the event in order to view the tickets being offered for sale for the event. System 10 will then present one or more pages containing descriptions of the tickets being offered for sale. **Page 21, lines 9 - 12** and **FIG. 8.** FIG. 15 illustrates one non-limiting example of a "ticket description" page 290. As shown, the page 290 presents a plurality of listings for tickets for a desired game or event. Each listing includes a description of the following ticket attributes: location (e.g., section and row), sale method (e.g., fixed price or auction), current price, ending date (e.g., the last sale time), and quantity (e.g., number of tickets for sale). **Page 21, lines 13 - 17** and **FIG. 15.**

| a third portion adapted to receive a purchase request and credit card information from said buyer; | Referring back to FIG. 2, the system 10 proceeds with the methodology 30 by receiving a purchase request and information from the buyer, as shown in functional block or step 36. Particularly, when a buyer desires to purchase any of the presented goods, system 10 accepts the purchase request, and queries the buyer for information (e.g., name, address, city, state, zip code, and other buyer attribute data). **Page 22, lines 3 – 7** and **FIGS. 1 and 2.**

In one non-limiting embodiment, the following series of pages may be used: a seat selection page that allows a user to select which of the seats the user desires to purchase; a delivery location options page that allows a user to enter a desired location for delivery (e.g., the user's home and/or work address, or will call); a delivery method options page that allows a user to select between various shipping options (e.g., conventional land/air courier, express courier, local courier or runner, overnight delivery, second day delivery, same day delivery); a payment options page that displays the total cost (e.g., ticket and delivery cost) and allows a user to select a method of payment (e.g., the type and number of a credit or debit card); and a confirmation page that allows a user to view a summary of the foregoing information, including a description of the tickets, delivery method, delivery location, payment amount, and method of payment. **Page 22, line 19 – Page 23, line 8** and **FIGS. 1 and 2.** |
| a fourth portion adapted to provide financial logistics, including authorizing and charging said credit card, and providing funds to said seller; and | In step 38, the system 10 automatically arranges and/or provides for all of the necessary financial logistics for the sale of goods to the buyer. In the preferred embodiment of the invention, the system 10 communicates and/or integrates with financial or payment service providers by use of global computer network 20 in order to provide the financial logistics for the |

	sales transaction. Flow diagram 50 of FIG. 3 illustrates an example of a method of providing payment processing or financial logistics in accordance with a preferred embodiment of the invention. Briefly, methodology 50 is executed as follows: the system 10 authorizes the sale amount on the buyer's credit card in functional block or step 52; notifies the seller of the proposed purchase and receives seller confirmation in functional block or step 54; charges the buyer's credit card in functional block or step 56; collects funds from the credit card transaction in functional block or step 58; and deducts a fee and transfers the remaining amount of the sale to the seller in functional block or step 60. **Page 26, lines 3 - 14** and **FIGS. 1-3.**
a fifth portion adapted to provide shipping logistics, including arranging for shipping said goods from said seller to said buyer;	Referring back to FIG. 2, the system 10 proceeds to automatically arrange and/or facilitate the logistics for the delivery of goods to the buyer, as shown in step 40. In the preferred embodiment of the invention, the system 10 communicates with several couriers by use of global computer network 20 in order to provide the shipping logistics for the sales transaction. Flow diagram 70 of FIG. 4 illustrates an example of a method of providing shipping logistics in accordance with a preferred embodiment of the invention. Briefly, the methodology 70 is executed as follows: the system 10 reviews the shipping option selected by the buyer and information from the seller (e.g., the location of the seller or goods) in functional block or step 72; provides the seller with one or more pickup and drop-off options in functional block or step 74; and communicates information to the selected courier and buyer in functional block or step 76. **Page 27, lines 16 - Page 28, line 3** and **FIGS. 1, 2 and 4.**

wherein shipping options are automatically provided as a function of shipping logistics associated with certain goods.	Finally, in functional block or step 440, system 10 obtains all shipping options, based upon the day of the goods expire, time remaining, the location of the goods, the location of the buyer, and the point of last delivery. These represent shipping options that will ensure that the goods can be delivered either to the buyer or to the point of last delivery before the goods expire. In the preferred embodiment, system 10 is electronically integrated with and/or communicatively coupled to the operating systems of a plurality of shipping couriers, such as conventional air/land couriers, express couriers, and local couriers or "runners." Alternatively, system 10 may include all relevant information, concerning the couriers' respective shipping capabilities and terms, in one or more databases or tables that can be selectively queried in order to obtain the available shipping options. System 10 queries these systems/databases to determine which couriers can execute the delivery within the time remaining before the goods expire, at which locations the deliveries can be made (e.g., at the buyer's location and/or at the point of last delivery), by which methods the couriers can perform the deliveries (e.g., two day, one day, overnight or same day delivery), and the cost of each shipping option. System 10 then presents some or all of the shipping options to the buyer. In the preferred embodiment, system 10 presents a list containing the identity of the couriers, the available shipping methods (e.g., two day, one day, overnight, same day) for each courier, and the associated cost of each shipping option. **Page 24, lines 1 – 18** and **FIG. 19.**

Support for the claimed subject matter defined in independent claim 25 is found at least in the portions of the specification and drawings as follows.

Claim 25	Specification and Figures
A method for providing logistics for a sale of goods without requiring interaction between a seller and a buyer, comprising the steps of:	The operational flow diagram 80 of FIG. 5 provides an illustration of the "double blind" nature of the preferred embodiment of the present invention. As shown in diagram 80, system 10 may provide logistics for a complete ticket-sale transaction, without interaction between buyer and seller (i.e., system 10 facilitates the entire ticket-sale transaction without requiring any interaction between a seller 82 and a buyer 84). Particularly, system 10 effectively isolates the seller's participation in the transaction (e.g., steps 86-92) from the buyer's participation in the transaction (e.g., steps 94-100). **Page 31, lines 6 - 12** and **FIG. 5.**
receiving information from a seller regarding certain goods that said seller desires to sell;	The method employed by the present invention to provide the "double blind" logistics may include receiving information from a seller regarding certain goods that the seller desires to sell. **Page 30, line 19 - Page 31, line 5.** In step 86, the seller accesses system 10 in a conventional manner, such as through a Web site implementing system 10. The seller navigates through the site and locates the event for which the seller has tickets. After the seller selects the event, the system 10 requires the seller to register and login, as shown in step 88. The system 10 also receives a description of the tickets from the seller and confirms the proposed sale. **Page 31, lines 14 - 18** and **FIG. 5.**
providing said information to at least one prospective buyer regarding said certain goods;	The method employed by the present invention to provide the "double blind" logistics may include providing information to prospective buyers regarding the certain goods that are for sale. **Page 30, line 19 - Page 31, line 5.**

	The buyer's participation in the transaction commences when the buyer accesses the system and browses (or searches) for tickets to purchase, as shown in step 94. **Page 31, lines 1 - 2** and **FIG. 5.**
receiving a purchase request for said certain goods from a buyer;	The method employed by the present invention to provide the "double blind" logistics may include receiving a purchase request from a buyer for the certain goods. **Page 30, line 19 - Page 31, line 5.** In step 96, the buyer selects certain tickets to purchase. **Page 31, lines 1 - 2** and **FIG. 5.**
confirming said buyer's ability to pay for said goods;	The method employed by the present invention to provide the "double blind" logistics may include confirming the buyer's financial ability to complete the sale or to pay for the goods (e.g., authorizing the buyer's credit card). **Page 30, line 19 - Page 31, line 5.** In step 96, the system 10 authorizes the buyer's credit card for the amount of the tickets. **Page 32, lines 2 - 4** and **FIG. 5.**
arranging for said certain goods to be transferred from said seller to said buyer;	The method employed by the present invention to provide the "double blind" logistics may include arranging for the certain goods to be transferred from the seller to the buyer. **Page 30, line 19 - Page 31, line 5.** The system provides the buyer with delivery tracking information in step 98. **Page 32, lines 4 - 6** and **FIG. 5.**
receiving payment from said buyer;	The method employed by the present invention to provide the "double blind" logistics may include receiving payment from the buyer (e.g., charging the buyer's credit card). **Page 30, line 19 – Page 31, line 5.** Upon receiving confirmation from the seller, the system charges the buyer's credit card in step 98. **Page 32, lines 4 - 6** and **FIG. 5.**

confirming that said certain goods have been received by said buyer; and	The method employed by the present invention to provide the "double blind" logistics may include confirming that the certain goods have been received by the buyer. **Page 30, line 19 - Page 31, line 5.** In step 100 the buyer receives the tickets and is queried for feedback regarding the seller. **Page 32, lines 6 - 7** and **FIG. 5.**
providing at least a portion of said received payment to said seller;	The method employed by the present invention to provide the "double blind" logistics may include providing payment to the seller, once receipt has been confirmed. **Page 30, line 19 - Page 31, line 5.** Once the delivery of the tickets has been completed, system 10 provides payment to the seller (e.g., by check or electronic wire) minus an operating fee, as shown in step 92. **Page 31, lines 21 - 23** and **FIG. 5.**
wherein said logistics are provided to said seller and said buyer via an automated system wherein identities of said seller and said buyer are maintained confidential from one another.	The system and method of the present invention may be implemented in a "double blind" manner to enable a third party (i.e., the operator of the system) to manage a transaction for the sale of goods between a seller and a remote buyer, including performing all necessary financial and shipping logistics, while maintaining the identity of the transacting parties (i.e., buyer and seller) confidential from one another. **Page 30, lines 13-18** and **FIG. 5.** As illustrated by block 102, system 10 controls and/or facilitates the entire sale and purchase process, and serves as an intermediary between the buyer and seller, such that the buyer and seller have no direct interaction (e.g., the identity of the parties can remain concealed from one another). In the preferred embodiment, system 10 is electronically integrated with systems of financial service providers and couriers, which operate in a cooperative manner with system 10 to provide the previously-described financial and shipping logistics. Since system 10 manages,

	provides, and facilitates all of the financial and shipping logistics, any issues that arise during the course of the transaction are managed and resolved by a single entity (i.e., the system and/or its operator). As such, the system 10 is desirable to both sellers and buyers, since it removes the need for individual sellers to provide and maintain their own logistics and customer support, and instills confidence and trust in prospective buyers. Moreover, since the entire transaction is managed by the system 10 (and/or its operator), the identity of the buyer need not be disclosed to the seller, and the identity of the seller need not be disclosed to the buyer. **Page 32, lines 8 -20** and **FIG. 5.**

Support for the claimed subject matter defined in independent claim 36 is found at least in the portions of the specification and drawings as follows.

Claim 36	Specification and Figures
A method of providing logistics for a sale of event tickets, comprising the steps of:	The present invention provides a system and method for providing logistics for the sale and purchase of goods, such as event tickets. **Page 9, lines 11-12.**
providing a Web site for receiving information from and presenting information to prospective sellers and buyers of event tickets;	In the preferred embodiment, the system and method are implemented on a global communications or computer network. Particularly, the system and method may comprise a "Web site," that may be implemented by at least one computer system or network (e.g., a plurality of cooperatively linked computers) that is operatively and communicatively coupled to a global computer network (e.g., the Internet) and that may be selectively and remotely accessed by users of the network. **Page 9, lines 12-17.**
	FIGS. 6-14 illustrate some examples of queries and interactive "pages" (i.e., Web pages where users may view and enter data by use of conventional browsing software) that may be presented by system 10 in order to gather information from prospective sellers of event tickets. **Page 12, lines 3 - 6** and **FIGS. 6-14.**
	The system 10 presents information regarding goods that are for sale to prospective buyers. In the preferred embodiment of the invention, the information is communicated over a global computer network 20 to prospective buyers who are directed to or are visiting a Web site utilized to implement system 10. **Page 20, line 21 - Page 21, line 2** and **FIG. 2.**
	Once a user has located an appropriate event (e.g., an event displayed on page 220), the user may select the event in order

17

	to view the tickets being offered for sale for the event. System 10 will then present one or more pages containing descriptions of the tickets being offered for sale. **Page 21, lines 9 - 12** and **FIG. 8.** FIG. 15 illustrates one non-limiting example of a "ticket description" page 290. As shown, the page 290 presents a plurality of listings for tickets for a desired game or event. Each listing includes a description of the following ticket attributes: location (e.g., section and row), sale method (e.g., fixed price or auction), current price, ending date (e.g., the last sale time), and quantity (e.g., number of tickets for sale). **Page 21, lines 13 - 17** and **FIG. 15.**
receiving information from a seller, including attributes of at least one event ticket that said seller desires to sell, and a location of said at least one event ticket;	In functional block or step 32, system 10 receives information from sellers regarding the identity of the sellers, and a description and location of the goods that the sellers desire to sell. In the preferred embodiment of the invention, the data can be communicated over a global computer network 20 by prospective sellers who are selectively queried by system 10 (e.g., while visiting a Web site), and who transmit appropriate responses by use of a computer 22. **Page 11, line 20 - Page 12, line 2** and **FIGS. 1 and 2.**
determining a last sale time based upon said location of said at least one event ticket, a point of last delivery, and a time when said associated event will occur;	System 10 also prompts the seller to enter the day and time that the sale will end. System 10 offers the seller several options (i.e., different days/times) for an end day and time for the sale, including a "last sale time" (i.e., the latest possible day and time that the sale may end, in order to permit the goods to reach their destination prior to expiration). See **Page 16, lines 3-6** and **FIG. 1.** System 10 determines the "last sale time" by use of a geography and time-based strategy adapted for use with the sale of time-sensitive goods. FIG. 18 illustrates one non-limiting embodiment of a

	geography and time-based method or strategy 320, which may be implemented by system 10 to determine the last sale time. See **Page 16, lines 7-10** and **FIGS. 1 and 18.** In functional block or step 330, the system 10 receives information regarding the location of the goods. See **Page 16, lines 10-11** and **FIG. 18.** In functional block or step 340, system 10 receives information regarding the date and time that the goods will expire. See **Page 16, lines 15-16** and **FIG. 18.** In functional block or step 350, system 10 receives information regarding the point of last delivery, which represents one or more locations to which the goods may be delivered at any time before the expiration date/time. See **Page 16, lines 21-23** and **FIG. 18.** In functional block or step 360, system 10 reviews all delivery options to determine a time required for delivery, based upon the location of the goods and the point of last delivery. See **Page 17, lines 6-7** and **FIG. 18.** Finally, in functional block or step 370, system 10 determines the last sale time by use of the expiration time and the time required for delivery. See **Page 18, lines 3-4** and **FIG. 18.** Once the last sale time is determined, system 10 will allow the seller to choose between the "last sale time" and a plurality of other "earlier" options, as shown in page 260 of FIG. 12. See **Page 18, lines 13-15** and **FIG. 12.**

presenting said at least one event ticket for sale to prospective buyers by use of said Web site, until said at least one event ticket is sold or said last sale time passes;	FIG. 15 illustrates one non-limiting example of a "ticket description" page 290. As shown, the page 290 presents a plurality of listings for tickets for a desired game or event. Each listing includes a description of the following ticket attributes: location (e.g., section and row), sale method (e.g., fixed price or auction), current price, ending date (e.g., the last sale time), and quantity (e.g., number of tickets for sale). **Page 21, lines 13 - 17** and **FIG. 15.**
receiving a purchase request for said at least one event ticket from a buyer;	Referring back to FIG. 2, the system 10 proceeds with the methodology 30 by receiving a purchase request and information from the buyer, as shown in functional block or step 36. Particularly, when a buyer desires to purchase any of the presented goods, system 10 accepts the purchase request, and queries the buyer for information (e.g., name, address, city, state, zip code, and other buyer attribute data). **Page 22, lines 3 – 7** and **FIGS. 1 and 2.** A seat selection page allows a user to select which of the seats the user desires to purchase. **Page 22, lines 22 - 23.**
providing at least one shipping option for selection by said buyer, and receiving an associated selected shipping option from said buyer;	A delivery method options page allows a user to select between various shipping options (e.g., conventional land/air courier, express courier, local courier or runner, overnight delivery, second day delivery, same day delivery). **Page 23, lines 1 - 4.** Finally, in functional block or step 440, system 10 obtains all shipping options, based upon the day of the goods expire, time remaining, the location of the goods, the location of the buyer, and the point of last delivery. These represent shipping options that will ensure that the goods can be delivered either to the buyer or to the point of last delivery before the goods expire. In the preferred embodiment, system 10 is electronically integrated with and/or communicatively coupled to the operating systems of a plurality of shipping

	couriers, such as conventional air/land couriers, express couriers, and local couriers or "runners." Alternatively, system 10 may include all relevant information, concerning the couriers' respective shipping capabilities and terms, in one or more databases or tables that can be selectively queried in order to obtain the available shipping options. System 10 queries these systems/databases to determine which couriers can execute the delivery within the time remaining before the goods expire, at which locations the deliveries can be made (e.g., at the buyer's location and/or at the point of last delivery), by which methods the couriers can perform the deliveries (e.g., two day, one day, overnight or same day delivery), and the cost of each shipping option. System 10 then presents some or all of the shipping options to the buyer. In the preferred embodiment, system 10 presents a list containing the identity of the couriers, the available shipping methods (e.g., two day, one day, overnight, same day) for each courier, and the associated cost of each shipping option. **Page 24, lines 1 – 18** and **FIG. 19.**
querying said buyer for information regarding a credit card to pay for said at least one event ticket;	A payment options page displays the total cost (e.g., ticket and delivery cost) and allows a user to select a method of payment (e.g., the type and number of a credit or debit card). **Page 23, lines 4 - 5.**
authorizing the credit card of said buyer for an amount of sale;	The method employed by the present invention may include confirming the buyer's financial ability to complete the sale or to pay for the goods (e.g., authorizing the buyer's credit card). **Page 30, line 19 - Page 31, line 5.** In step 96, the system 10 authorizes the buyer's credit card for the amount of the tickets. **Page 32, lines 2 - 4** and **FIG. 5.**

arranging for a courier to receive said at least one event ticket from said seller and deliver said at least one event ticket to said buyer, according to said selected shipping option;	Upon the occurrence of a triggering event, system 10 will provide the seller with several courier "pickup" options, representing dates, times and locations at which a system-selected courier can retrieve the tickets from the seller when they are sold. In the preferred embodiment, the system 10 will present the user with several pickup days, up to and including the day of the calculated last sale time. A user may then select one or more dates, times and locations for courier pickup. FIG. 14 illustrates one non-limiting example of a page 280 for acquiring the pickup information. See **Page 19, lines 14-22** and **FIG. 14.**
charging said credit card of said buyer for said amount of sale;	Upon receiving confirmation from the seller, the system charges the buyer's credit card in step 98. **Page 32, lines 4 - 6** and **FIG. 5.**
receiving said amount of sale; and	The method employed by the present invention may include receiving payment from the buyer (e.g., charging the buyer's credit card). **Page 30, line 19 - Page 31, line 5.**
providing at least a portion of said amount of sale to said seller upon delivery of said at least one event ticket to said buyer.	The method employed by the present invention may include providing payment to the seller, once receipt has been confirmed. **Page 30, line 19 - Page 31, line 5.** Once the delivery of the tickets has been completed, system 10 provides payment to the seller (e.g., by check or electronic wire) minus an operating fee, as shown in step 92. **Page 31, lines 21 - 23** and **FIG. 5.**

Support for the claimed subject matter defined in independent claim 40 is found at least in the portions of the specification and drawings as follows.

Claim 40	Specification and Figures
A method of providing logistics for a sale of event tickets, comprising the steps of:	The present invention provides a system and method for providing logistics for the sale and purchase of goods, such as event tickets. **Page 9, lines 11-12.**
providing a Web site for receiving information from and presenting information to prospective sellers and buyers of event tickets;	In the preferred embodiment, the system and method are implemented on a global communications or computer network. Particularly, the system and method may comprise a "Web site," that may be implemented by at least one computer system or network (e.g., a plurality of cooperatively linked computers) that is operatively and communicatively coupled to a global computer network (e.g., the Internet) and that may be selectively and remotely accessed by users of the network. **Page 9, lines 12-17.**

FIGS. 6-14 illustrate some examples of queries and interactive "pages" (i.e., Web pages where users may view and enter data by use of conventional browsing software) that may be presented by system 10 in order to gather information from prospective sellers of event tickets. **Page 12, lines 3 - 6** and **FIGS. 6-14.**

The system 10 presents information regarding goods that are for sale to prospective buyers. In the preferred embodiment of the invention, the information is communicated over a global computer network 20 to prospective buyers who are directed to or are visiting a Web site utilized to implement system 10. **Page 20, line 21 - Page 21, line 2** and **FIG. 2.** Once a user has located an appropriate event (e.g., an event displayed on page 220), the user may select the event in order to view the tickets being offered for sale for the event. System 10 will then present one |

	or more pages containing descriptions of the tickets being offered for sale. **Page 21, lines 9 - 12** and **FIG. 8.** FIG. 15 illustrates one non-limiting example of a "ticket description" page 290. As shown, the page 290 presents a plurality of listings for tickets for a desired game or event. Each listing includes a description of the following ticket attributes: location (e.g., section and row), sale method (e.g., fixed price or auction), current price, ending date (e.g., the last sale time), and quantity (e.g., number of tickets for sale). **Page 21, lines 13 - 17** and **FIG. 15.**
providing a seller an option for selling event tickets within a season ticket package;	In the preferred embodiment, a seller may also choose to sell tickets to a plurality of events within a season ticket package. Particularly, system 10 may be specially adapted to facilitate the sale of tickets within a season ticket package. **Page 20, lines 1 - 3.**
providing an interactive page on said Web site which automatically displays all events remaining in said season ticket package to said seller;	FIG. 17 illustrates a non-limiting example of a page 310 for selling tickets from a season ticket package. Once the data is entered, the system 10 will query the seller for pickup information (e.g., by use of page 280), and will confirm the proposed sales. In this manner, the present invention allows holders of season tickets to place some or all of their tickets for sale in a quick and simple manner. **Page 20, lines 14 - 18** and **FIG. 17.**
allowing said seller to select any of said displayed events to place for sale, to enter sales information including a number of tickets for sale for each event, and a price per ticket for each event; and	Referring back to page 200 of FIG. 6, a user wishing to sell a plurality of tickets within a season ticket package can enter the name of the location (i.e., venue) or team providing the season ticket package. Once a seller enters this data, system 10 requires the user to register and login (e.g., by use of pages 230 and 240), and retrieves the relevant information regarding the description and location of the tickets (e.g., by use of pages 250, 260 and 270). System 10 then presents a page to the seller that displays a list of all remaining games or

	events in the season ticket package. System 10 determines the remaining games or events by searching a database or table within its memory containing all season ticket events, and selecting only those events which will occur after the present day. Each item in the list may include a box for selecting a particular game or event to sell, an area to enter the quantity of tickets that are for sale for the particular game or event, and a desired price per ticket for the particular game or event. **Page 20, lines 3 - 14** and **FIG. 6.**
presenting said sales information to prospective buyers by use of said Web site;	The system 10 presents information regarding goods that are for sale to prospective buyers. In the preferred embodiment of the invention, the information is communicated over a global computer network 20 to prospective buyers who are directed to or are visiting a Web site utilized to implement system 10. **Page 20, line 21 - Page 21, line 2** and **FIG. 2.** Once a user has located an appropriate event (e.g., an event displayed on page 220), the user may select the event in order to view the tickets being offered for sale for the event. System 10 will then present one or more pages containing descriptions of the tickets being offered for sale. **Page 21, lines 9 - 12** and **FIG. 8.** FIG. 15 illustrates one non-limiting example of a "ticket description" page 290. As shown, the page 290 presents a plurality of listings for tickets for a desired game or event. Each listing includes a description of the following ticket attributes: location (e.g., section and row), sale method (e.g., fixed price or auction), current price, ending date (e.g., the last sale time), and quantity (e.g., number of tickets for sale). **Page 21, lines 13 - 17** and **FIG. 15.**

receiving information from a seller, including attributes of at least one event ticket that said seller desires to sell, and a location of said at least one event ticket;	In functional block or step 32, system 10 receives information from sellers regarding the identity of the sellers, and a description and location of the goods that the sellers desire to sell. In the preferred embodiment of the invention, the data can be communicated over a global computer network 20 by prospective sellers who are selectively queried by system 10 (e.g., while visiting a Web site), and who transmit appropriate responses by use of a computer 22. **Page 11, line 20 - Page 12, line 2** and **FIGS. 1 and 2.**
determining a last sale time based upon said location of said at least one event ticket, a point of last delivery, and a time when said associated event will occur;	System 10 also prompts the seller to enter the day and time that the sale will end. System 10 offers the seller several options (i.e., different days/times) for an end day and time for the sale, including a "last sale time" (i.e., the latest possible day and time that the sale may end, in order to permit the goods to reach their destination prior to expiration). See **Page 16, lines 3-6** and **FIG. 1.** System 10 determines the "last sale time" by use of a geography and time-based strategy adapted for use with the sale of time-sensitive goods. FIG. 18 illustrates one non-limiting embodiment of a geography and time-based method or strategy 320, which may be implemented by system 10 to determine the last sale time. See **Page 16, lines 7-10** and **FIGS. 1 and 18.** In functional block or step 330, the system 10 receives information regarding the location of the goods. See **Page 16, lines 10-11** and **FIG. 18.** In functional block or step 340, system 10 receives information regarding the date and time that the goods will expire. See **Page 16, lines 15-16** and **FIG. 18.** In functional block or step 350, system 10

	receives information regarding the point of last delivery, which represents one or more locations to which the goods may be delivered at any time before the expiration date/time. See **Page 16, lines 21-23** and **FIG. 18.** In functional block or step 360, system 10 reviews all delivery options to determine a time required for delivery, based upon the location of the goods and the point of last delivery. See **Page 17, lines 6-7** and **FIG. 18.** Finally, in functional block or step 370, system 10 determines the last sale time by use of the expiration time and the time required for delivery. See **Page 18, lines 3-4** and **FIG. 18.** Once the last sale time is determined, system 10 will allow the seller to choose between the "last sale time" and a plurality of other "earlier" options, as shown in page 260 of FIG. 12. See **Page 18, lines 13-15** and **FIG. 12.**
presenting said at least one event for sale to prospective buyers by use of said Web site, until said at least one event ticket is sold or said last sale time passes;	FIG. 15 illustrates one non-limiting example of a "ticket description" page 290. As shown, the page 290 presents a plurality of listings for tickets for a desired game or event. Each listing includes a description of the following ticket attributes: location (e.g., section and row), sale method (e.g., fixed price or auction), current price, ending date (e.g., the last sale time), and quantity (e.g., number of tickets for sale). **Page 21, lines 13 - 17** and **FIG. 15.**
receiving a purchase request for said at least one event ticket from a buyer;	Referring back to FIG. 2, the system 10 proceeds with the methodology 30 by receiving a purchase request and information from the buyer, as shown in functional block or step 36. Particularly, when a buyer desires to purchase any of the presented goods, system 10 accepts the purchase request, and queries the buyer for information (e.g., name, address, city, state,

	zip code, and other buyer attribute data). **Page 22, lines 3 – 7** and **FIGS. 1 and 2.** A seat selection page allows a user to select which of the seats the user desires to purchase. **Page 22, lines 22 - 23.**
providing at least one shipping option for selection by said buyer, and receiving an associated selected shipping option from said buyer; and	A delivery method options page allows a user to select between various shipping options (e.g., conventional land/air courier, express courier, local courier or runner, overnight delivery, second day delivery, same day delivery). **Page 23, lines 1 - 4.** Finally, in functional block or step 440, system 10 obtains all shipping options, based upon the day of the goods expire, time remaining, the location of the goods, the location of the buyer, and the point of last delivery. These represent shipping options that will ensure that the goods can be delivered either to the buyer or to the point of last delivery before the goods expire. In the preferred embodiment, system 10 is electronically integrated with and/or communicatively coupled to the operating systems of a plurality of shipping couriers, such as conventional air/land couriers, express couriers, and local couriers or "runners." Alternatively, system 10 may include all relevant information, concerning the couriers' respective shipping capabilities and terms, in one or more databases or tables that can be selectively queried in order to obtain the available shipping options. System 10 queries these systems/databases to determine which couriers can execute the delivery within the time remaining before the goods expire, at which locations the deliveries can be made (e.g., at the buyer's location and/or at the point of last delivery), by which methods the couriers can perform the deliveries (e.g., two day, one day, overnight or same day delivery), and the cost of each shipping option. System 10 then presents some or all of the

	shipping options to the buyer. In the preferred embodiment, system 10 presents a list containing the identity of the couriers, the available shipping methods (e.g., two day, one day, overnight, same day) for each courier, and the associated cost of each shipping option. **Page 24, lines 1 – 18** and **FIG. 19.**
providing one or both of financial logistics and/or shipping logistics to a prospective buyer.	Referring once again to FIG. 2, once the transaction has been confirmed by the buyer, system 10 proceeds with the methodology 30 by providing financial logistics, as shown in functional block or step 38, and by providing shipping logistics, as shown in functional block or step 40. **Page 25, lines 19 - 22** and **FIGS. 1 and 2.** In step 38, the system 10 automatically arranges and/or provides for all of the necessary financial logistics for the sale of goods to the buyer. **Page 26, lines 3 - 4** and **FIGS. 1 and 2.** Referring back to FIG. 2, the system 10 proceeds to automatically arrange and/or facilitate the logistics for the delivery of goods to the buyer, as shown in step 40. **Page 27, lines 16 - 17** and **FIGS. 1 and 2.**

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-35 are unpatentable under 35 U.S.C. § 103(a) over United

States Patent Number (USPN) 5,987,429 to Martzen ("Martzen").

Whether claims 36-43 are unpatentable under 35 U.S.C. § 103(a) over USPN

6,873,969 to Stone et al. ("Stone").

VII.   ARGUMENT

Claims 1-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over

United States Patent Number (USPN) 5,987,429 to Martzen ("Martzen"). Appellants

respectfully traverse this rejection.

Among its other elements, independent claim 1 recites "wherein said shipping

logistics include automated variation of delivery options as a function of a time period

associated with said goods and a geography-based consideration." Among its other

elements, independent claim 12 recites "wherein shipping options are automatically

provided as a function of shipping logistics associated with certain goods." Among its

other elements, independent claim 25 recites "wherein said logistics are provided to said

seller and said buyer via an automated system wherein identities of said seller and said

buyer are maintained confidential from one another."

As correctly noted in the Office Action, Martzen fails to explicitly teach "wherein

said shipping logistics include automated variation of delivery options as a function of a

time period associated with said goods and a geography based consideration." The

Office Action, however, relies on Martzen at column 5, lines 37-61 which states:

> Other transaction information objects shown in FIG. 3 are
> purchased product or service object, transaction entities
> object, shipping/delivery object, and order-communication
> object. The product/service information identifies the type--
> product, service, or other such as electronic data or
> information. The product/service information object also
> includes such information as brand name, description,
> origin (manufacturer or service provider), category,
> material, etc.--for example, brand name: Smasher;
> description: tennis racket model #12345; origin: Winn
> Athletic Co., United Kingdom; category: sporting goods;
> material: titanium. The transaction entities information
> object includes the name and location of the buyer

30

(purchaser), seller, distributor (if any), warehouse
company, shipper(s), etc. The shipping/delivery
information object includes method of shipment, name of
one or more shippers, transit locations of shipment. The
order-communication information object includes
information on how the order was placed and through what
communication service provider the order was place. The
order might be placed through an internet or extranet,
through a telephone modem or through a cable modem, and
the service provider would be an internet service provider,
a telephone company or a cable company, respectively. The
communication information would include the name and
location of the communication service provider.

The Office Action also relies on Martzen at column 1, lines 16-23 which states:

The Internet, particularly the World Wide Web, has provide
an opportunity for a dramatic expansion of electronic
commerce. Goods are shopped for, purchased, paid for and
in some cases delivered over the Web. Such transactions
usually have multiple phases such as shopping, purchase,
warehousing, shipping and delivery. Further, each of these
phases from shopping to delivery of the goods typically
occurs in different contractual fee or tax fee jurisdictions.

Based on the above, independent claims 1, 12, and 25 were rejected using the
identical rationale that:

"Therefore it would have been obvious to one or ordinary skill in the art at the
time the invention was made to modify the teachings of Martzen to include wherein said
shipping logistics include automated variation of delivery options as a function of time
period associated with said goods and a geography based consideration in order to
document and provide customers with shipping or delivery options so they may choose
the option based on their shipping needs." (See Final Office at pages 2-3 regarding claim
1, page 5 regarding claim 12, and pages 7-8 regarding claim 25).

Appellants respectfully submit that Martzen does not disclose all of the recited
features of independent claims 1, 12, and 25 and that there is no teaching, suggestion, or
motivation to modify Martzen to include all of the recited features of independent claims
1, 12, and 25. Therefore, Martzen is insufficient to establish a *prima facie* case of
obviousness with respect to independent claims 1, 12, and 25.

Independent Claim 1

Regarding claim 1, the Examiner concludes that it would have been obvious to one or ordinary skill in the art at the time the invention was made to modify the teachings of Martzen to include "wherein said shipping logistics include automated variation of delivery options as a function of time period associated with said goods and a geography based consideration." The rationale set forth in the Office Action for modifying Martzen is "to document and provide customers with shipping or delivery options so they may choose the option based on their shipping needs."

Martzen is directed to "automatically tracking, calculating and electronically paying taxes, royalties and other fees associated with transactions in electronic commerce systems." Referring to FIG. 2A of Martzen, operation 100 collects the general transaction information, operation 102 tests for a specific tax law or contractual fee applicable only a specific transaction object, and in operation 103 tax fee and other fee information is collected and stored in the tax rule and other fee rule database.

Referring to FIG. 2B of Martzen, operation 104 searches through a hierarchy of tax rules and other fee rules entered into a tax rule database and an other fee rule database based on location, i.e. jurisdiction, of each phase or event of the transaction. Operation 105 applies the rules provided by operation 104 against the transaction event object. If a rule applies, operation 105 calculates the tax or other fee according to the rule. Once the general tax fee rules are tested for all locations of a transaction, the specific tax fee rules are checked by operation 106.

Referring to FIG. 2C, the fee payment operation 108 works on the general tax/fee objects and specific tax/fee objects stored in the payments database. In the case of taxes, operation 108 reads the government entity to be paid and the amount of the payment. In the case of fees, operation 108 reads the recipient to be paid and the amount of the payment. Multiple payments to the same entity are accumulated. Each payment is identified with a transaction, with the tax liable entity and any other information from the transaction that may be required by the tax law or the other fee conditions. Operation 108 checks for the method of payment; i.e., check, electronic transfer, etc. The payment is then made by operation 108 and the tax objects paid are marked paid in the payment database.

As correctly noted in the Office Action, Martzen fails to explicitly teach "wherein said shipping logistics include automated variation of delivery options as a function of a time period associated with said goods and a geography-based consideration," recited in independent claim 1.

While Martzen is directed to tracking multiple phases of an electronic transaction, such as shopping, purchase, warehousing, shipping and delivery, Martzen clearly does not teach or suggest a system to provide financial logistics and shipping logistics for completing a sale of goods without requiring interaction between a buyer and a seller.

Further, although the portion of Martzen cited by the Examiner (i.e., column 5, lines 37-61) discloses "The shipping/delivery information object includes method of shipment, name of one or more shippers, transit locations of shipment," there is no teaching or suggestion in Martzen to provide shipping logistics, wherein said shipping logistics include automated variation of delivery options.

And, there is clearly no teaching or suggestion in Martzen to provide shipping logistics, wherein said shipping logistics include automated variation of delivery options as a function of a time period associated with said goods and a geography-based consideration.

Appellants also submit that Martzen fails to teach or suggest, either expressly or impliedly, the desirability of making the alleged modification to arrive at such feature. Appellants respectfully remind the Examiner that a rejection based on obviousness is improper without a motivation to modify the cited reference. *See e.g.*, MPEP § 2142. To support a conclusion that the claimed invention is directed to obvious subject matter, either the reference must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Id*.

Although the portion of Martzen cited by the Examiner (i.e., column 5, lines 37-61) disclose "The shipping/delivery information object includes method of shipment, name of one or more shippers, transit locations of shipment," there is no express or implied suggestion in Martzen to include shipping logistics, wherein said shipping logistics include automated variation of delivery options. And, there is clearly no express

or implied suggestion in Martzen to include shipping logistics, wherein said shipping logistics include automated variation of delivery options as a function of a time period associated with said goods and a geography-based consideration.

Nevertheless, the Examiner alleges that it would have been obvious to modify Martzen to include the missing language of claim 1 in order to document and provide customers with shipping or delivery options so they may choose the option based on their shipping needs.

Applicant submits that this rationale set forth in the Office Action is unsupported and insufficient to establish obviousness with respect to independent claim 1. Namely, Martzen fails to teach or suggest, either expressly or impliedly, the desirability of providing a customer with shipping or delivery options so that they may choose the option based on their shipping needs. And, even assuming that Martzen could be modified to include shipping or delivery options, which Appellants do not admit, there would still be no teaching or suggestion to provide shipping logistics that include automated variation of delivery options as a function of a time period associated with said goods and a geography-based consideration.

Without proper motivation to modify Martzen to arrive at invention of independent claim 1, the rejection based on obviousness is improper. The motivation to make the alleged modification must be found either in Martzen or in the knowledge generally available to a person of ordinary skill in the art.

Here, the Office Action does not adequately support its conclusion of obviousness and fails to present a convincing line of reasoning as to why a person of ordinary skill in the art would have found the features of claim 1 to have been obvious in view of the teachings of Martzen. Rather, the Office Action merely concludes that it would have been obvious to modify Martzen to include the missing claim language. This line of reasoning to provide customers with shipping or delivery options so that customers may choose the option based on their shipping needs is circular, unsupported, and based on impermissible hindsight.

For at least the reasons set forth above, Appellants request reconsideration and withdrawal of the obviousness rejection of independent claim 1.

Dependent Claims 2-11

Appellants submit that dependent claims 2-11 are allowable by virtue of their dependency from independent claim 1 for at least the reasons discussed above.

In addition, Appellants submit that grounds of rejection provided by the Office Action are insufficient to render claims 2-11 unpatentable on their merits. To support the rejection of dependent claim 2-11, the Office Action cites Martzen at column 1, lines 56-67, column 2, lines 1-67, and columns 3-8 lines 1-67. It is noted that the cited portions amount to practically the entire disclosure of Martzen with the exception of the Background and the claims. Appellants submit that these blanket rejections fail to properly address each of the features of claims 2-11.

For example, with respect to claim 5, Appellants submit that the cited portions of Martzen fail to adequately teach or fairly suggest event tickets. With respect to claim 6, Appellants submit that the cited portions of Martzen fail to adequately teach or fairly suggest said shipping logistics include electronically transferring said event tickets from said seller to said buyer. With respect to claim 6, Appellants submit that the cited portions of Martzen fail to adequately teach or fairly suggest said shipping logistics include arranging for a courier to receive said goods from said seller and to deliver said goods to said buyer.

With respect to claims 3, 4 and 8-10, for example, Appellants submit that the cited portions of Martzen fail to adequately teach or fairly suggest providing said shipping logistics by use of at least one geography-based and time-based strategy (claim 3); time-sensitive goods (claim 4); said system utilizes said at least one geography-based and time-based strategy to provide said seller with a latest possible time for said sale to end (claim 8); said system is adapted to receive a sale price for said goods from a seller and to present said goods for sale at said sale price, said system being further adapted to selectively reduce said sale price by a predetermined amount upon expiration of a predetermined time period (claim 9); and/or said system further utilizes said at least one geography-based and time-based strategy to provide said buyer with at least one option for shipping said goods with at least one courier (claim 10).

For at least the reasons set forth above, Appellants request reconsideration and withdrawal of the obviousness rejection of dependent claims 2-11.

Independent Claim 12

Regarding claim 12, the Examiner concludes that it would have been obvious to one or ordinary skill in the art at the time the invention was made to modify the teachings of Martzen to include "wherein said shipping logistics include automated variation of delivery options as a function of time period associated with said goods and a geography based consideration." The rationale set forth in the Office Action for modifying Martzen is "to document and provide customers with shipping or delivery options so they may choose the option based on their shipping needs."

Appellants submit that the Office Action does not adequately support its conclusion of obviousness and fails to present a convincing line of reasoning as to why a person of ordinary skill in the art would have found the features of claim 12 to have been obvious in view of the teachings of Martzen for at least the reasons given above with respect to independent claim 1.

For at least these reasons, Appellants request reconsideration and withdrawal of the obviousness rejection of independent claim 12.

Dependent Claims 13-24

Appellants submit that dependent claims 13-24 are allowable by virtue of their dependency from independent claim 12 for at least the reasons discussed above. In addition, Appellants submit that grounds of rejection provided by the Office Action are insufficient to render claims 13-24 unpatentable on their merits. To support the rejection of dependent claim 13-24, the Office Action again cites Martzen at column 1, lines 56-67, column 2, lines 1-67, and columns 3-8 lines 1-67 amounting to practically the entire disclosure of Martzen with the exception of the Background and the claims. Appellants submit that these blanket rejections fail to properly address each of the features of claims 13-24.

For example, with respect to claims 13-24, Appellants submit that the cited portions of Martzen fail to adequately teach or fairly suggest said first, second and third portions each comprise at least one interactive Web page (claim 13); said first portion is adapted to determine a last sale time, based upon said location of said goods, a point of last delivery, and an expiration time of said goods (claim 14); said fourth portion is

further adapted to receive confirmation from a seller, and to charge said credit card only after receiving said confirmation (claim 15); said fifth portion is further adapted to determine at least one shipping option based upon said point of last delivery and said expiration time of said goods (claim 16); said fifth portion is further adapted to present said at least one shipping option for selection by said buyer (claim 17); said fifth portion is integrated with at least one computer system of a shipping courier (claim 18); said second portion is further adapted to selectively reduce said desired sale price by a predetermined amount upon expiration of a predetermined time period (claim 19); said second portion is further adapted to selectively vary said desired sale price based upon market conditions (claim 20); time-sensitive goods (claim 21); event tickets (claim 22); said fifth portion is further adapted to electronically transfer said event tickets from said seller to said buyer (claim 23); and/or said point of last delivery is a venue location of said event and said expiration time is a time of said event (claim 24).

For at least the reasons set forth above, Appellants request reconsideration and withdrawal of the obviousness rejection of dependent claims 13-24.

Independent Claim 25

Regarding claim 25, the Examiner concludes that it would have been obvious to one or ordinary skill in the art at the time the invention was made to modify the teachings of Martzen to include "wherein said shipping logistics include automated variation of delivery options as a function of time period associated with said goods and a geography based consideration." The rationale set forth in the Office Action for modifying Martzen is "to document and provide customers with shipping or delivery options so they may choose the option based on their shipping needs."

Appellants submit that the Office Action does not adequately support its conclusion of obviousness and fails to present a convincing line of reasoning as to why a person of ordinary skill in the art would have found the features of claim 25 to have been obvious in view of the teachings of Martzen for at least the reasons given above with respect to independent claim 1.

Additionally, it is pointed out that independent claim 25 recites among its other elements, "wherein said logistics are provided to said seller and said buyer via an

automated system wherein identities of said seller and said buyer are maintained confidential from one another." As such, Appellants submit that grounds of rejection in the Office Action do not properly address the claimed features of independent claim 25.

For at least these reasons, Appellants request reconsideration and withdrawal of the obviousness rejection of independent claim 25.

Dependent Claims 26-35

Appellants submit that dependent claims 26-35 are allowable by virtue of their dependency from independent claim 25 for at least the reasons discussed above. In addition, Appellants submit that grounds of rejection provided by the Office Action are insufficient to render claims 26-35 unpatentable on their merits. To support the rejection of dependent claim 26-35, the Office Action again cites Martzen at column 1, lines 56-67, column 2, lines 1-67, and columns 3-8 lines 1-67 amounting to practically the entire disclosure of Martzen with the exception of the Background and the claims. Appellants submit that these blanket rejections fail to properly address each of the features of claims 26-35.

For example, with respect to claims 26-35, Appellants submit that the cited portions of Martzen fail to adequately teach or fairly suggest time-sensitive goods (claim 26); event tickets (claim 27); said event tickets are electronically transferred from said buyer to said seller (claim 28); said event tickets are physically transferred from said buyer to said seller (claim 29); said step of confirming said buyer's ability to pay for said goods includes authorizing a credit card of said buyer (claim 30); said step of receiving payment from said buyer includes charging said credit card (claim 31); confirming said seller's ability to provide said certain goods prior to charging said credit card (claim 32); said step of providing said information to at least one prospective buyer is performed by use of a Web site (claim 33); said step of arranging for said certain goods to be transferred from said seller to said buyer includes determining a plurality of shipping options by use of a geography and time-based strategy, and providing said plurality of shipping options to said buyer (claim 34); and/or each of said steps is performed without disclosing the identities of said buyer and said seller to one another (claim 35).

For at least the reasons set forth above, Appellants request reconsideration and withdrawal of the obviousness rejection of dependent claims 26-35.

Claims 36-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPN 6,873,969 to Stone et al. ("Stone"). Appellants respectfully traverse this rejection.

To support the rejection of claims 36-43, the Office Action cites Stone at column 5, lines 13-67 and column 13, lines 65-67 and columns 16-47, lines 1-67, and column 69, lines 30-63 amounting to blanket rejections that fail to properly address each of the features of claims 26-35.

Independent Claims 36 and 40

Appellants submit that the Office Action does not adequately support its conclusion of obviousness and fails to present a convincing line of reasoning as to why a person of ordinary skill in the art would have found the features of claim 36 to have been obvious in view of the teachings of Stone.

Appellants submit that Stone is directed primary to electronic or virtual delivery options. For example, at column 6, line 65 - column 7, line 53, Stone discloses:

> Several objects and advantages of the Network ID and Purchase Verification System component of the present invention are:

> To allow for the replacement of traditional tickets, passes, admission documents, reservations, reservation confirmations, and other means of verification that require prior or "will call" delivery to the buyer. The present invention improves on the prior art by creating a controlled universal ID at time of purchase that can be transmitted to the facility, site, business, or venue to be used for verification of the buyer and purchase. This ID can be used for one purchase or maintained within the network for future use as a permanent ID for the purchase and access to any facility, site, business, or venue that is represented by that instance of the present invention.

> To allow for a more convenient method of purchase of tickets, passes, admission documents, or reserved services, or for the late purchase of those tickets, passes, admission documents, or reserved services beyond what would be

39

feasible if physical delivery of the access or admission documents were required. The present invention allows for purchases to be made and buyer IDs to be transmitted to the facility, site, business or venue within a matter of minutes of the buyer arriving for admittance. By using an electronic network, Internet, Intranet, or phone service, a buyer could literally make the purchase by laptop computer with wireless modem or by cell phone from the car on the way to the facility, site, business, or venue for admittance. The invention, when used in conjunction with an electronic inventory-available presentation, can allow buyers to become aware of and take advantage of last-minute cancellations and changes of availability.

The invention reduces labor and material requirements by the sellers of tickets, passes, admission documents, or reserved services. The invention substantially reduces the labor and material requirement for fulfillment of purchases of tickets, passes, admissions, or reserved services in several ways. By eliminating the requirement of delivery of those documents that allow the buyer admittance, there is no outgoing correspondence and/or fulfillment package to prepare. The costs associated with shipping, tracking, or follow-up on lost items as well as the customer service costs that accompany late or poorly communicated delivery instructions are reduced or eliminated. At admission time, additional costs are saved with the full implementation of the present invention by the use of automatic vendors that print the admission documents on demand by the buyer and with automated verification of the buyer's ID. This function replaces the "will call" method of admission document delivery and the associated cost in labor and facility overhead.

To the extent that Stone mentions physical delivery, at column 42, line 56 - column 43, line 2, Stone discloses:

If the purchased item is to be delivered to the buyer, then the alternative block diagram FIG. 3i-a shows the possible configuration of that transaction flow. This configuration would be for goods or products that might require physical delivery of the good or product to the Buyer. The Central Presentation and Selection Server 2000 formats and sends a Transaction Message, which contains any shipping request or special instructions to the Seller. The Central Controller and Presentation Processor 1000 processes the Transaction

> Message and then sends it to the Seller Interface 4000. The
> Seller will respond to those shipping and special requests
> outside the realm of the present invention. (FIGS. 3i-a,
> blocks 10500a-10510a)

Among their other elements, independent claims 36 and 40 recite determining a last sale time based upon a location of at least one event ticket, a point of last delivery, and a time when an associated event will occur; presenting the at least one event ticket for sale to prospective buyers by use of a Web site, until the at least one event ticket is sold or the last sale time passes. Appellants submit that Stone fails to teach or fairly suggest at least these features of independent claims 36 and 40.

Independent claim 36 also recites "arranging for a courier to receive said at least one event ticket from said seller and deliver said at least one event ticket to said buyer, according to said selected shipping option." Appellants submit that Stone also fails to teach or suggest at least this feature of independent claim 36.

Independent claim 40 also recites "providing an interactive page on said Web site which automatically displays all events remaining in said season ticket package to said seller." Appellants submit that Stone also fails to teach or suggest at least this feature of independent claim 40.

Appellants respectfully submit that Stone does not disclose all of the recited features of independent claims 36 and 40 and that there is no teaching, suggestion, or motivation to modify Stone to include all of the recited features of independent claims 36 and 40. Therefore, Stone is insufficient to establish a *prima facie* case of obviousness with respect to independent claims 36 and 40. Accordingly, Appellants request reconsideration and withdrawal of the obviousness rejection of independent claims 36 and 40.

Dependent Claims 37-39 and 41-43

Appellants submit that dependent claims 37-39 and 41-43 are allowable by virtue of their dependency from independent claim 36 for at least the reasons discussed above.

In addition, Appellants submit that the blanket grounds of rejection provided by the Office Action which cite column 5, lines 13-67 and column 13, lines 65-67 and

column 16-47 lines 1-67 and column 60, lines 30-63 are insufficient to render claims 37-39 and 41-43 unpatentable on their merits. Accordingly, Appellants request reconsideration and withdrawal of the obviousness rejection of dependent claims 37-39 and 41-43.

Conclusion

For at least the reasons set forth above, Appellants submit that the Examiner has failed to meet the burden of establishing a *prima facie* case of obviousness with respect to claims 1-43.

In view of the foregoing arguments, Appellants respectfully request the Board to overturn the § 103(a) rejections of claims 1-43.

Respectfully submitted,

KACVINSKY LLC

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Robert V. Racunas, Reg. No. 43,027
Under 37 CFR 1.34(a)

Dated: <u>January 11, 2008</u>

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VIII.   CLAIMS APPENDIX

1.   A system for providing logistics for a sale goods, said system being adapted to receive information from at least one remote seller and at least one remote buyer, and to provide financial logistics and shipping logistics for completing said sale of goods without requiring interaction between said buyer and said seller;

wherein said shipping logistics include automated variation of delivery options as a function of a time period associated with said goods and a geography-based consideration.

2.   The system of claim 1 wherein said system is adapted to receive said information over a communications network.

3.   The system of claim 1 wherein said system is adapted to provide said shipping logistics by use of at least one geography-based and time-based strategy.

4.   The system of claim 3 wherein said goods are time-sensitive.

5.   The system of claim 4 wherein said goods are event tickets.

6.   The system of claim 5 wherein said shipping logistics include electronically transferring said event tickets from said seller to said buyer.

7.   The system of claim 3 wherein said shipping logistics include arranging for a courier to receive said goods from said seller and to deliver said goods to said buyer.

8.   The system of claim 4 wherein said system utilizes said at least one geography-based and time-based strategy to provide said seller with a latest possible time for said sale to end.

9.   The system of claim 8 wherein said system is adapted to receive a sale price for said goods from a seller and to present said goods for sale at said sale price, said system being further adapted to selectively reduce said sale price by a predetermined amount upon expiration of a predetermined time period.

10.   The system of claim 8 wherein said system further utilizes said at least one geography-based and time-based strategy to provide said buyer with at least one option for shipping said goods with at least one courier.

11.   The system of claim 1 wherein said financial logistics include authorizing an amount of sale on a credit card of said buyer, charging said credit card for said amount of sale, receiving said amount of sale, and transferring at least a portion of said amount of sale to said seller.

12.   A system for providing logistics for a sale of goods comprising:

a first portion adapted to receive information from a seller, including a location, desired sale price and description of certain goods;

a second portion adapted to present said desired sale price and description of said certain goods to a prospective buyer;

a third portion adapted to receive a purchase request and credit card information from said buyer;

a fourth portion adapted to provide financial logistics, including authorizing and charging said credit card, and providing funds to said seller; and

a fifth portion adapted to provide shipping logistics, including arranging for shipping said goods from said seller to said buyer;

wherein shipping options are automatically provided as a function of shipping logistics associated with certain goods.

13.   The system of claim 12 wherein said first, second and third portions each comprise at least one interactive Web page.

14.   The system of claim 13 wherein said first portion is adapted to determine a last sale time, based upon said location of said goods, a point of last delivery, and an expiration time of said goods.

15.   The system of claim 14 wherein said fourth portion is further adapted to receive confirmation from a seller, and to charge said credit card only after receiving said confirmation.

16.   The system of claim 15 wherein said fifth portion is further adapted to determine at least one shipping option based upon said point of last delivery and said expiration time of said goods.

17.   The system of claim 16 wherein said fifth portion is further adapted to present said at least one shipping option for selection by said buyer.

18.   The system of claim 17 wherein said fifth portion is integrated with at least one computer system of a shipping courier.

19.   The system of claim 18 wherein said second portion is further adapted to selectively reduce said desired sale price by a predetermined amount upon expiration of a predetermined time period.

20.   The system of claim 18 wherein said second portion is further adapted to selectively vary said desired sale price based upon market conditions.

21.   The system of claim 18 wherein said goods are time-sensitive.

22.   The system of claim 21 wherein said goods are event tickets.

23.   The system of claim 22 wherein said fifth portion is further adapted to electronically transfer said event tickets from said seller to said buyer.

24.   The system of claim 22 wherein said point of last delivery is a venue location of said event and said expiration time is a time of said event.

25.   A method for providing logistics for a sale of goods without requiring interaction between a seller and a buyer, comprising the steps of:

receiving information from a seller regarding certain goods that said seller desires to sell;

providing said information to at least one prospective buyer regarding said certain goods;

receiving a purchase request for said certain goods from a buyer;

confirming said buyer's ability to pay for said goods;

arranging for said certain goods to be transferred from said seller to said buyer;

receiving payment from said buyer;

confirming that said certain goods have been received by said buyer; and

providing at least a portion of said received payment to said seller;

wherein said logistics are provided to said seller and said buyer via an automated system wherein identities of said seller and said buyer are maintained confidential from one another.

26.   The method of claim 26 wherein said certain goods are time-sensitive.

27.   The method of claim 26 wherein said certain goods are event tickets.

28.   The method of claim 27 wherein said event tickets are electronically transferred from said buyer to said seller.

29.   The method of claim 27 wherein said event tickets are physically transferred from said buyer to said seller.

30.   The method of claim 25 wherein said step of confirming said buyer's ability to pay for said goods includes authorizing a credit card of said buyer.

31.   The method of claim 30 wherein said step of receiving payment from said buyer includes charging said credit card.

32.   The method of claim 31 further comprising the step of: confirming said seller's ability to provide said certain goods prior to charging said credit card.

33.   The method of claim 32 wherein said step of providing said information to at least one prospective buyer is performed by use of a Web site.

34.   The method of claim 25 wherein said step of arranging for said certain goods to be transferred from said seller to said buyer includes determining a plurality of shipping options by use of a geography and time-based strategy, and providing said plurality of shipping options to said buyer.

35.   The method of claim 25 wherein each of said steps is performed without disclosing the identities of said buyer and said seller to one another.

36.   A method of providing logistics for a sale of event tickets, comprising the steps of:

     providing a Web site for receiving information from and presenting information to prospective sellers and buyers of event tickets;

     receiving information from a seller, including attributes of at least one event ticket that said seller desires to sell, and a location of said at least one event ticket;

     determining a last sale time based upon said location of said at least one event ticket, a point of last delivery, and a time when said associated event will occur;

     presenting said at least one event ticket for sale to prospective buyers by use of said Web site, until said at least one event ticket is sold or said last sale time passes;

     receiving a purchase request for said at least one event ticket from a buyer;

     providing at least one shipping option for selection by said buyer, and receiving an associated selected shipping option from said buyer;

querying said buyer for information regarding a credit card to pay for said at least one event ticket;

authorizing the credit card of said buyer for an amount of sale;

arranging for a courier to receive said at least one event ticket from said seller and deliver said at least one event ticket to said buyer, according to said selected shipping option;

charging said credit card of said buyer for said amount of sale;

receiving said amount of sale; and

providing at least a portion of said amount of sale to said seller upon delivery of said at least one event ticket to said buyer.

37. The method of claim 36 further comprising the steps of: receiving confirmation that said seller can provide said at least one event ticket prior to charging said credit card of said buyer.

38. The method of claim 36 wherein said point of last delivery is determined to be the venue location of said event.

39. The method of claim 38 wherein said location of said at least one event ticket is determined to be the location of said seller.

40. A method of providing logistics for a sale of event tickets, comprising the steps of:

providing a Web site for receiving information from and presenting information to prospective sellers and buyers of event tickets;

providing a seller an option for selling event tickets within a season ticket package;

providing an interactive page on said Web site which automatically displays all events remaining in said season ticket package to said seller;

allowing said seller to select any of said displayed events to place for sale, to enter sales information including a number of tickets for sale for each event, and a price per ticket for each event; and

presenting said sales information to prospective buyers by use of said Web site;

receiving information from a seller, including attributes of at least one event ticket that said seller desires to sell, and a location of said at least one event ticket;

determining a last sale time based upon said location of said at least one event ticket, a point of last delivery, and a time when said associated event will occur;

presenting said at least one event for sale to prospective buyers by use of said Web site, until said at least one event ticket is sold or said last sale time passes;

receiving a purchase request for said at least one event ticket from a buyer;

providing at least one shipping option for selection by said buyer, and receiving an associated selected shipping option from said buyer; and

providing one or both of financial logistics and/or shipping logistics to a prospective buyer.

41.   The method of claim 36 further comprising the steps of: receiving a desired sale price for said at least one event ticket from said seller; receiving a minimum sale price for said at least one event ticket from said seller; and displaying a purchase price for said at least one event ticket to prospective buyers, said purchase price being initially equal to said desired sales sale price; and selectively reducing said displayed purchase price by a predetermined amount each time a predetermined time period expires until said at least one event ticket is sold or until said purchase price equals said minimum sale price.

42.   The method of claim 36 further comprising the steps of: receiving a desired sale price for said at least one event ticket from said seller; and displaying a purchase price for said at least one event ticket to prospective buyers, said purchase price being initially equal to said desired sale price; and selectively varying said displayed purchase price based upon market conditions.

43.   The method of claim 36 further comprising the steps of: determining a time remaining before said event tickets expire upon receiving said purchase request from said buyer; and determining said at least one shipping option based upon said time remaining before said event, and said location of said at least one event ticket.

IX.   EVIDENCE APPENDIX

None

X.   RELATED PROCEEDINGS APPENDIX

None